

IN RE: PETITION FOR ZONING VARIANCE  
C/L of Ridge Road,  
1,350' E of Fitch Avenue  
(4702 and 1/2 Ridge Road)  
14th Election District  
6th Councilmanic District  
Howard J. Kilian, Jr., et ux  
Petitioners

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 90-374-A

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit an accessory structure (garage) height of 19 feet in lieu of the maximum permitted height of 15 feet, in accordance with Petitioner's Exhibit 1.

The Petitioners appeared and testified. Also appearing on behalf of the Petition were Helen Fitch and Arthur Bowers, residents of Ridge Road, and Carol Pijonowski, adjoining property owner. Appearing as Protestants in the matter were Thomas, Mary, Cindy and Louise Benach, Gregg, Deborah and Donald Keplinger, Michael and Joanne Bozman, and Mary Comes. The Protestants were represented by Andrew W. Naden, Esquire.

Testimony indicated that the subject property, known as 4702 1/2 Ridge Road, consists of .5356 acres zoned D.R. 3.3 and is improved with a single family dwelling and detached two-car garage. Petitioner testified that he obtained a building permit for the garage in May 1989 and commenced construction in June. On October 31, 1989, Petitioners were issued a stop work order as a result of a complaint filed in the Zoning Office. Testimony indicated Petitioner was not aware of the height restrictions contained in the zoning regulations and had built the garage with a roof pitch of 19 feet in lieu of the maximum permitted height of 15 feet. There are dormer windows in the rear side of the roof. Petitioner testified the garage has no electric, no water or sewer facilities, and there are no plans to in-

stall same. Testimony indicated that to require removal of the roof might make the walls unstable and dangerous, and that Petitioners would suffer financial hardship as a result of having to hire a contractor to do the work.

The proffered testimony of the Protestants indicated that while they are not opposed to Petitioners having a garage, they object to the proposed height. Testimony indicated the Protestants believe the subject garage has not been built in keeping with the character of the neighborhood and that to grant such relief would not be within the spirit and intent of the zoning regulations.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, there is insufficient evidence to allow a finding that the Petitioners would experience practical difficulty or unreasonable hardship if the requested variance were denied. The testimony presented by Petitioners

was in support of a matter of preference rather than of the necessity for the variance. While the Petitioners argue that bringing the garage in compliance with the zoning regulations will cause undue expense for them, financial hardship cannot be considered a factor when making a determination as to the appropriateness of a variance. The Petitioners have failed to show that compliance with the height restrictions would unreasonably prevent the use of the property or be unnecessarily burdensome. Therefore, the variance requested must be denied.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 30<sup>th</sup> day of March, 1990 that the Petition for Zoning Variance to permit an accessory structure (garage) height of 19 feet in lieu of the maximum permitted height of 15 feet, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the roof of the subject garage shall be reconstructed to meet the 15-foot height limitations of the zoning regulations by no later than July 1, 1990.

*J. Robert Haines*  
J. ROBERT HAINES  
Zoning Commissioner  
for Baltimore County

JRH:bjs

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Townson, Maryland 21204  
(301) 887-2333  
J. Robert Haines  
Zoning Commissioner

March 30, 1990



Dennis F. Rasmussen  
County Executive

Mr. & Mrs. Howard J. Kilian, Jr.  
4702 1/2 Ridge Road  
Baltimore, Maryland 21236

RE: PETITION FOR ZONING VARIANCE  
C/L of Ridge Road, 1,350' E of Fitch Avenue  
(4702 1/2 Ridge Road)  
14th Election District - 6th Councilmanic District  
Howard J. Kilian, Jr., et ux - Petitioners  
Case No. 90-374-A

Dear Mr. & Mrs. Kilian:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,  
*J. Robert Haines*  
J. ROBERT HAINES  
Zoning Commissioner  
for Baltimore County

JRH:bjs

cc: Andrew W. Naden, Esquire  
24 W. Pennsylvania Avenue, Suite 1, Towson, Md. 21204

People's Counsel

File

#### PETITION FOR ZONING VARIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-374-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 400.1 to permit an accessory building (garage) of 19' in height in lieu of the required height of 15'.

of the Zoning Regulations of Baltimore County to the Zoning Law of Baltimore County, for the reasons: (Indicate hardship or practical difficulty)

SEE ATTACHED SHEET

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:  
(Type or Print Name)  
Signature  
Address  
City and State

Legal Owner(s):  
(Type or Print Name)  
Signature  
(Type or Print Name)  
Signature  
Address  
City and State

Attorney for Petitioner:  
(Type or Print Name)  
Signature  
Address  
City and State

Attorney's Telephone No.:  
Address  
City and State

ORDERED By The Zoning Commissioner of Baltimore County, this 17 day of March, 1990, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that the public hearing be held before the Zoning Commission of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 27 day of March, 1990, at 2 o'clock P.M.

*J. Robert Haines*  
J. ROBERT HAINES  
Zoning Commissioner of Baltimore County

#### BALTIMORE COUNTY MARYLAND DEPARTMENT OF PERMITS AND LICENSES TOWSON, MARYLAND 21204

#### BUILDING PERMIT

PERMIT NO. 9016632 CONTROL NO. 101514 PREC. 02  
DATE ISSUED: 05/16/89 TAX ACCOUNT NO. 17000412325 CLASS. 04

PLANS: CONST. LOT 2 R FLAT DATA ELEC NO PLUM NO  
LOCATION: 4702 1/2 RIDGE RD  
SUBDIVISION: GEARY LONG PLAT

OWNER INFORMATION  
NAME: KILIAN, JR., HOWARD & KATHLEEN  
ADDR: 4702 1/2 RIDGE ROAD, BALTO., MD. 21236

TEHANY  
OWNER  
SELLER  
WORK: CONSTRUCT 2-CAR DETACHED GARAGE ON REAR OF PROPERTY. 24' X 24' X 19' = 576 SF.

THIS PERMIT  
EXPIRES ONE  
YEAR FROM DATE  
OF ISSUE

PROPOSED: 1 AND 2 FAM. CODE  
RESIDENTIAL CATEGORY: DETACHED OWNERSHIP: PRIVATELY OWNED

ESTIMATED & PROPOSED USE: SAME AND GARAGE  
2,300.00 EXISTING USE: SFD

TYPE OF IMPRV: NEW BUILDING CONSTRUCTION  
USE: GARAGE  
FOUNDATION: SLAB BASEMENT: NONE  
SEWAGE: PUBLIC EXIST WATER: PUBLIC EXIST

#### LOT SIZE AND SETBACKS

SIZE: 963/067X368/351  
FRONT STREET:  
SIDE STREET: NC  
SIDE SETB: 3' 3/4'  
SIDE STR SETB: 165  
REAR SETB: 165

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES.

#### HARDSHIP

When we applied for the garage building permit (#B016632), we were not informed of the 15' maximum garage height. If we had known of the 15' maximum height, we wouldn't had constructed the garage over the 15' restriction. We were led to believed by the clerk in building permits that the 10' height on permit #B016632 was only the wall height and not the total height of the garage. We did state to the clerk that the garage would have a 8' garage door with a 14' clearance above the garage door. The clerk never asked what will be the total height of the garage. As residents of Baltimore County that does not deal with the zoning regulations, we were unfamiliar with the zoning in our area pertaining to garages.

If the roof would have to be removed, the removal would make the walls unstable and dangerous. There is always the possibility that the garage walls could collapse. One person could not remove the roof safely the way one can build a roof.

Due to an automobile accident in November which we were involved in (the accident was not our fault), I (Howard Kilian) feel as one person that I am unable to perform the removal of the roof due to a shoulder injury sustained from the accident. Therefore, we would have to hire a contractor to do this work. To hire a contractor to perform the work on the roof, it would be a financial hardship. With our car being totaled, we had to invest our funds into the purchase of a new car. We are unable to secure funds for the removal of the roof at this time.

Therefore we are requesting that the garage be completed as is with the 19' height.

#### ZONING DESCRIPTION

Beginning at a point in the center of Ridge Road which is 1,350'± east of the center line of Fitch Avenue. Being lot # 13 in the subdivision of Geary A. Long as recorded in Baltimore County plat book No. 7, folio 120, saving and excepting therefrom that part of said lot granted to the Mayor and City Council of Baltimore City as recorded in Baltimore County land records in Liber W.J.R. No. 3688, in Baltimore County land records in Liber W.J.R. No. 3688, .9356 acre. Also know as 4702 1/2 Ridge Road and located in the 14th election district.

Baltimore County  
Zoning Commissioner  
County Office Building  
121 West Limescape Avenue  
Towson, Maryland 21204

Account #001-6150  
Number

No. 1046

1/18/90

PUBLIC HEARING FEES  
010 - ZONING VARIANCE (1RL)  
TOTAL: \$35.00

LAST NAME OF OWNER: KILIAN, J.  
Please make checks payable to Baltimore County

Cashier Validation

# PROTESTANT'S EXHIBIT A

90-374A



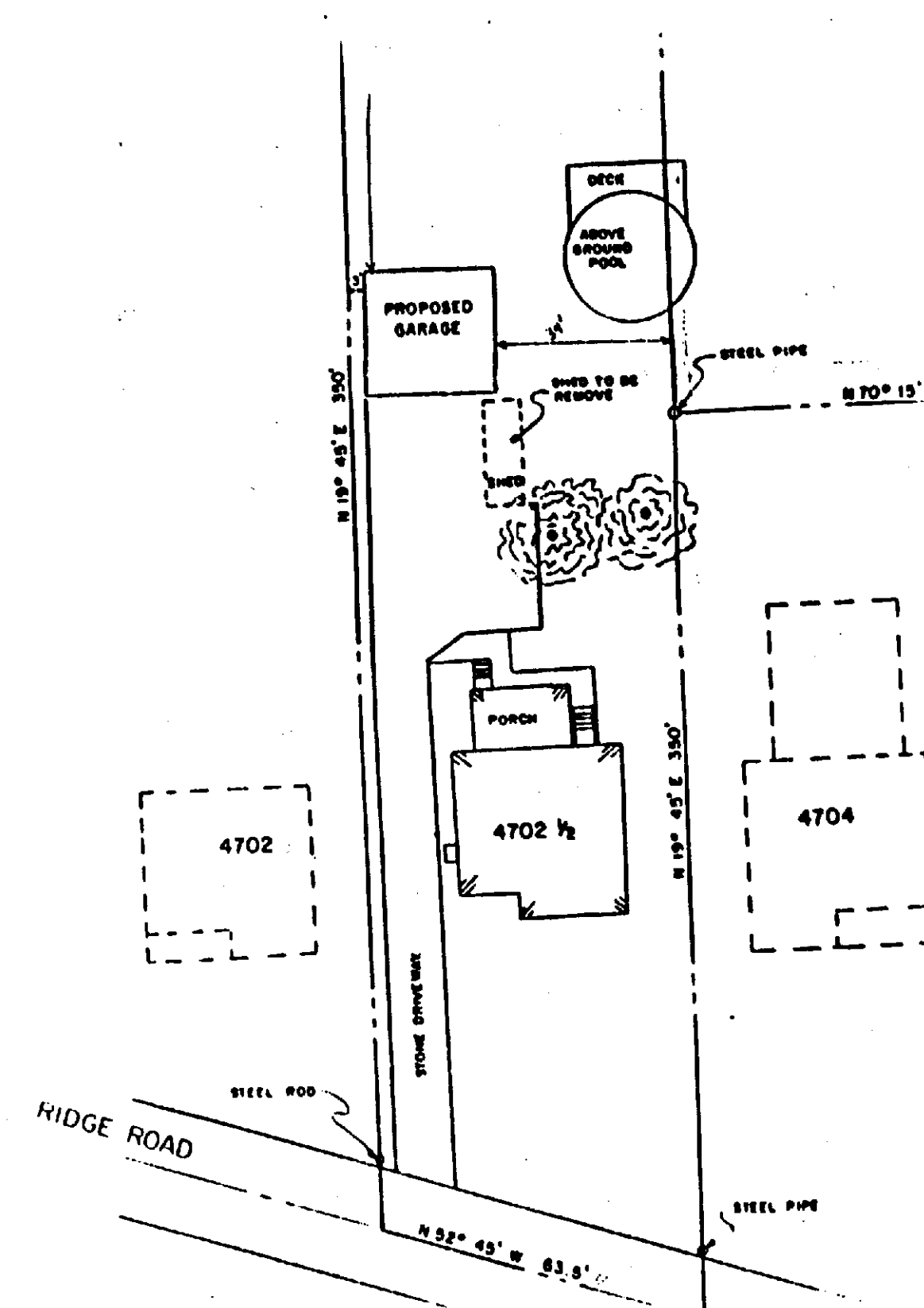
BALTIMORE COUNTY MARYLAND  
DEPARTMENT OF PERMITS AND LICENSES  
TOWSON, MARYLAND 21204

BUILDING ENGINEER

## BUILDING PERMIT

PERMIT NO. 9016632 CONTROL NO. 14 DIST. 14 PREC. 02  
DATE ISSUED: 02/14/89 TAX ACCOUNT NO. 1700012325 CLASS: 02  
PLANS: CHURCH FLOT 2 R PLAT DATA ELEC NO FLUN NO  
LOCATION: 4702 1/2 RIDGE RD  
SUBDIVISION: GEARY LONG PLAT  
OWNER INFORMATION  
NAME: KILLIAN, JR., HOWARD A KATHLEEN  
ADDR: 4702 1/2 RIDGE ROAD, BALTO., MD. 21234  
TELEPHONE:  
OWNER: OWNER  
ENGINEER:  
SELLER:  
WORK: CONSTRUCT 2-CAR DETACHED GARAGE ON REAR OF  
PROPERTY. 24 X 24 X 10 = 576 SF.

BLDG. CODE: 1 AND 2 FAM. CODE (UNREQUIRE) PRIVATELY OWNED  
RESIDENTIAL CATEGORY: DETACHED  
ESTIMATED 4 PROPOSED USE: SAME AND GARAGE  
2,500.00 EXISTING USE: SFD  
TYPE OF IMPROV: NEW BUILDING CONSTRUCTION  
USE: GARAGE FOUNDATION: SLAB BASEMENT: NONE  
SEWER: PUBLIC EXIST WATER: PUBLIC EXIST  
LOT SIZE AND SETBACKS  
SIZE: 0.62/0.75/0.35/0.34  
FRONT SETBACK: 30' SIDE SETBACK: 30' REAR SETBACK: 165'  
SIDE SETBACK: 30' SIDE SETBACK: 165'



# PROTESTANT'S EXHIBIT B

B

90-374A

ARTICLE 4--SPECIAL REGULATIONS [B.C.Z.R., 1955.]

Section A400--PURPOSE [Bill No. 18, 1976.]

Certain uses, whether permitted as of right or by special exception, have singular, individual characteristics which make it necessary, in the public interest, to specify regulations in greater detail than would be feasible in the individual use regulations for each or any of the zones or districts. This article, therefore, provides such regulations. [Bill No. 40, 1967.]

Section B400--APPLICATION OF THIS ARTICLE'S PROVISIONS [Bill No. 18, 1976.]

The provisions of this article apply only to principal uses except as otherwise specified (as in Item 405.4.C.12) or unless the provision implicitly relates to accessory usage (as in Section 405A). [Bill No. 18, 1976.]

Section 400--ACCESSORY BUILDINGS IN RESIDENCE ZONES [B.C.Z.R., 1955; Bill No. 27, 1963.]

400.1--Accessory buildings in residence zones, other than farm buildings (Section 404) shall be located only in the rear yard and shall occupy not more than 40% thereof. On corner lots they shall be located only in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third. In no case shall they be located less than 2 1/2 feet from any side or rear lot lines, except that two private garages may be built with a common party wall straddling a side interior property line if all other requirements are met. The limitations imposed by this section shall not apply to a structure which is attached to the principal building by a covered passageway or which has one wall or part of one wall in of the principal building and shall be subject to the yard requirements for such a building. [B.C.Z.R., 1955; Bill No. 27, 1963.]

400.2--Accessory buildings shall be set back not less than 15 feet from the center line of any alley on which the lot abuts. [B.C.Z.R., 1955.]

400.3--The height of accessory buildings, except as noted in Section 300 shall not exceed 15 feet. [B.C.Z.R., 1955.]

4-1

less than the average depth of the front yards of all lots within 100 feet on each side thereof which are improved as described above. [B.C.Z.R., 1955.]

Section 304--USE OF UNDERSIZED SINGLE-FAMILY LOTS [B.C.Z.R., 1955.]

A one-family dwelling may be erected on a lot having an area or width of the building line less than that required by the height and area regulations, provided: [B.C.Z.R., 1955.]

a. That such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to adoption of these Regulations; and [B.C.Z.R., 1955.]

b. That all other requirements of the height and area regulations are complied with; and [B.C.Z.R., 1955.]

c. That the owner of the lot does not own sufficient adjoining land to conform substantially to the width and area requirements. [B.C.Z.R., 1955.]

Section 305--REPLACEMENT OF DESTROYED OR DAMAGED DWELLINGS [B.C.Z.R., 1955.]

In case of complete or partial casualty loss by fire, wind, storm, flood, or otherwise of an existing dwelling that does not comply with height and/or area requirements of the zone in which it is located, such dwelling may be restored provided area and/or height deficiencies of the dwellings before the casualty are not increased in any respect. [B.C.Z.R., 1955.]

Section 306--MINOR PUBLIC UTILITY STRUCTURES [B.C.Z.R., 1955.]

Minimum lot area regulations in any zone shall not apply to repeater, booster, or transformer stations, or small community dial offices. [B.C.Z.R., 1955; Resolution, November 21, 1956.]

Section 307--VARIANCES [B.C.Z.R., 1955; Bill No. 107, 1963.]

307.1--The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from offstreet parking regulations and from sign regulations, only in cases where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential

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APPROVED JUL 01 1989

# PROTESTANT'S EXHIBIT C

PETITION AND AFFIDAVIT

OBJECTION TO ZONING VARIANCE

CASE NUMBER: 90-374-A

We, the Undersigned residents of the 14th Election District, 6th Councilmanic, Baltimore County, Maryland, hereby object to the proposed variance to permit an accessory building (garage) of 19 feet + or - in height in lieu of the required height of 15 feet at 4702 1/2 Ridge Road which is now being petitioned by Howard J. Killian, Jr., et ux.

A hearing date for this matter has been scheduled for Tuesday, March 27, 1990 at 2:00 p.m., and many of us will not be able to attend in person to voice our objections due to our prior work schedules and previous commitments. Therefore, we now submit this objection by proxy in an effort to stay the issuance of this erroneous building permit.

The zoning law of Baltimore County already provides for the construction of an accessory building which is 15 feet in height. If the petitioner is allowed to build a 20 feet tall structure in our neighborhood, the result will be more like a dwelling than a garage. There is no passenger car sold in America today which requires a such a large garage.

1

This is our neighborhood, and we must all live here, together. If it is possible to live within the existing zoning laws, we must endeavor to do so. Otherwise, we run the risk of changing the nature and character of the neighborhood. We are not asking the Zoning Commissioner to prevent the Killians from constructing any accessory building on their property. Rather, we are merely suggesting that they build their garage within the guidelines which are currently prescribed by law.

We respectfully request that this petition and the undersigned names be read into the record on the date of the hearing by our attorney, Andrew W. Naden, of 24 West Pennsylvania Avenue, Suite One, Towson, Maryland 21204.

WITNESS our hands and seals on the date which appears to the right of our respective names.

NAME AND DATE	ADDRESS AND PHONE NUMBER
1. Thomas L. Smith 3/2/90	7702 COMES AVE. 665-8489
2. Gregg A. Neplinger 3/2/90	7701 COMES AVE. 665-1001
3. [Signature] 3/2/90	8712 Wilson Ave. 665-1613

2

density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, offstreet parking, or sign regulations, and only in such manner as to grant relief without substantial injury to public health, safety, and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance. [B.C.Z.R., 1955; Bill No. 107, 1963; No. 32, 1988.]

307.2--In addition to the authority and limitations set forth in Section 307.1 above, within the Chesapeake Bay Critical Area, the Zoning Commissioner, or upon appeal, the Board of Appeals of Baltimore County, shall have the power to authorize the expansion of those uses in existence at the time of the effective date of this subsection; any order granting a variance pursuant to this subsection shall contain findings of fact which shall include the following: [Bill No. 32, 1988.]

1. That special conditions or circumstances exist that are peculiar to the land or structure within the critical area of the county; [Bill No. 32, 1988.]
2. That strict compliance with the critical area regulations would result in practical difficulty, unreasonable hardship or severe economic hardship; [Bill No. 32, 1988.]
3. That strict compliance with the critical area regulations will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the critical area of the county; [Bill No. 32, 1988.]
4. That the granting of a variance will not confer upon an applicant any special privilege that would be denied by the critical area regulations to other lands or structures within the critical area of the county; [Bill No. 32, 1988.]
5. That the variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property; [Bill No. 32, 1988.]

APPROVED JUL 01 1989

3-4

4. [Signature] 3/2/90 8843 Wilson Ave. 665-1613
5. [Signature] 3/2/90 3510 QUETMAN AVE. 665-1607
6. [Signature] 3/2/90 3510 Quetman Ave. 665-1607
7. [Signature] 3/2/90 8841 WILSON AVE. 665-1613
8. [Signature] 3/2/90 8840 WILSON AVE. 665-0892
9. [Signature] 3/2/90 8840 WILSON AVE. 665-0892
10. [Signature] 3/2/90 7701 COMES AVE. 665-1001
11. [Signature] 3/2/90 14 Henry Ave. 665-1613
12. [Signature] 3/2/90 14 Henry Ave. 665-1613

3

13. David W. Benach 2-25-90 7902 Comes Ave.  
Baltimore, MD 21236-665-8489
14. James O. Benach 2-25-90 7902 Comes Ave.  
Louise A. Benach Balto. Md. 21236-665-8489
15. May D. Benach 2-25-90 7902 Comes Ave.  
May D. Benach Balto. Md. 21236-665-8489
16. Cindy A. Benach 3-25-90 7902 Comes Avenue  
Cindy A. Benach Baltimore, MD 21236-665-8489
17. Dave Russo 3-26-90 4 TOWNRIDGE COURT, APT D  
DAVE RUSSO BALTIMORE, MD 21236-661-1183
18. John Conner 4-6-90 4640 Ridge Road  
John Conner Baltimore, MD 21236-665-3721
19. Mary B. Conner 4-6-90 4640 Ridge Road  
Mary B. Conner Baltimore, MD 21236-665-3721
20. Mike B. 4-6-90 4640 Ridge Road  
Mike B. Balto. MD 21236-665-3721

90-374A

PROTESTANT(S) EXHIBIT (4)



90-374A

PROTESTANT(S) EXHIBIT (4)



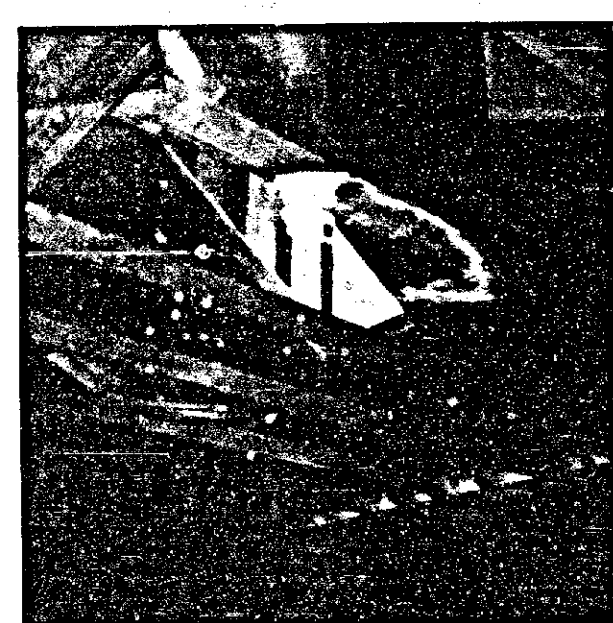
90-374A

PROTESTANT(S) EXHIBIT (4)



90-374A

Petitioner's Exhibit 2



## **PETITIONER'S** **EXHIBIT 3**

90-374A

AS NEIGHBORS TO HOWARD AND KATHLEEN KILIAN, WE HAVE NO  
OBJECTION TO THE 19 FEET HEIGHT OF THEIR GARAGE WHICH IS  
LOCATED AT 4702 1/2 RIDGE ROAD.

NAME

ADDRESS

<u>John Fitch 3/17/90</u>	<u>4702 Ridge Rd.</u>
<u>Arthur E. Bauer</u>	<u>4705 Ridge Rd.</u>
<u>Francis &amp; Dorothy White</u>	<u>4702 Ridge Rd.</u>
<u>Alida King</u>	<u>4702 Ridge Rd.</u>
<u>Rose M. Conner</u>	<u>4642 Ridge Rd.</u>
<u>Roy &amp; Becky Jones</u>	<u>4701 RIDGE RD. 21236</u>
<u>Dor &amp; Carol Pijunowski</u>	<u>4704 Ridge Road</u>
<u>George C. Joliffe</u>	<u>4704 Ridge Road</u>
<u>Jois Froad</u>	<u>4708 Ridge Road</u>
<u>Christine M. Pijunowski</u>	<u>4704 Ridge Road</u>

Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353

J. Robert Haines  
Zoning Commissioner

Feb. 13, 1990

## **NOTICE OF HEARING**

Dennis F. Rasmussen  
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance  
CASE NUMBER: 90-374-A  
C/L of Ridge Road, 1350' E of Fitch Avenue  
4702 Ridge Road  
14th Election District - 6th Councilmanic  
Petitioner(s): Howard J. Kilian, Jr., et ux  
HEARING: TUESDAY, MARCH 27, 1990 at 2:00 p.m.

Variance to permit an accessory building (garage) of 19 ft. in height in lieu of the required height of 15 ft.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period, the Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

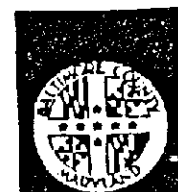
J. Robert Haines  
ZONING COMMISSIONER  
BALTIMORE COUNTY, MARYLAND

cc: Mr. & Mrs. Kilian

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353

J. Robert Haines  
Zoning Commissioner

DATE 3/13/90



Dennis F. Rasmussen  
County Executive

Re: Petition for Zoning Variance  
CASE NUMBER: 90-374-A  
C/A of Ridge Road, 1350' E of Fitch Avenue  
4702 1/2 Ridge Road  
14th Election District - 8th Councilmanic  
Petitioner(s): Howard J. Kilian, Jr., et ux  
HEARING: TUESDAY, MARCH 27, 1990 at 2:00 p.m.

Dear Mr. & Mrs. Kilian:

Please be advised that \$105.46 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional \$50.00 added to the above amount for each such set not returned.

Very truly yours,

J. Robert Haines  
J. ROBERT HAINES  
ZONING COMMISSIONER

JRH:gs  
cc: File

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353

J. Robert Haines  
Zoning Commissioner

March 14, 1990



Dennis F. Rasmussen  
County Executive

Mr. & Mrs. Howard J. Kilian, Jr.  
4702 1/2 Ridge Road  
Baltimore, MD 21236

RE: Item No. 238, Case No. 90-374-A  
Petitioner: Howard J. Kilian, et ux  
Petition for Zoning Variance

Dear Mr. & Mrs. Kilian:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer  
JAMES E. DYER  
Chairman  
Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353

J. Robert Haines  
Zoning Commissioner



Dennis F. Rasmussen  
County Executive

Your petition has been received and accepted for filing this 14th day of February, 1990.

J. Robert Haines  
J. ROBERT HAINES  
ZONING COMMISSIONER

Received By:

James E. Dyer  
Chairman,  
Zoning Plans Advisory Committee

Petitioner: Howard J. Kilian, Jr., et ux

Petitioner's Attorney:

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines  
Zoning Commissioner

DATE: February 9, 1990

FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning

SUBJECT: Howard J. Kilian, Jr., Item 238

The Petitioner requests a Variance to a Variance to permit an accessory building of 19 ft. in height in lieu of the required height of 15 ft.

Should the Petitioner's request be granted, staff recommends a restriction be placed in the Order prohibiting any living quarters, kitchen, or bathroom facilities in the garage.

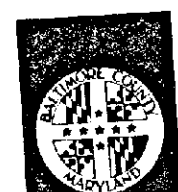
If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

Baltimore County  
Department of Permits & Licenses  
111 West Chesapeake Avenue  
Towson, Maryland 21204  
(301) 887-3611

Ted Zaleski, Jr.  
Director

FEBRUARY 7, 1990



Dennis F. Rasmussen  
County Executive

J. Robert Haines  
Zoning Commissioner  
Office of Planning and Zoning  
Baltimore County Office Building  
Towson, MD 21204

RE: Property Owner: HOWARD J. KILIAN, JR.  
Location: 44702-1/2 RIDGE ROAD

Item No.: 238 Zoning Agenda: FEBRUARY 13, 1990

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: Capt. J. Kelly 2-7-90 Noted and Approved  
Planning Group Captain W. F. Brady, Jr.  
Special Inspection Division Fire Prevention Bureau

JK/KEK

FEB 12 1990

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: March 5, 1990

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting  
for February 13, 1990

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 229, 235, 236, 238, and 239.

Robert W. Bowling  
ROBERT W. BOWLING, P.E., Chief  
Developers Engineering Division

RWB:g

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Howard J. Kilian	4702 1/2 Ridge Rd.
Kathleen M. Kilian	4702 1/2 Ridge Rd.
John J. Kilian	4709 Ridge Rd.
Carol Pijowski	4704 Ridge Rd.
Arthur Bowers	4705 Ridge Rd.



Baltimore County, Maryland

Date: 2/13/90

To: Case No. 90-374-A

From: RWH

☒ Please Note & File ☐ To be Signed  
☐ For Your Information ☐ Please Comment  
☐ Please Note & Return ☐ Please See Me  
☐ Please Handle ☐ Investigate & Report  
☐ Please answer, Sending me Copy of your letter  
☐ Please Prepare reply for my Signature

Remarks: Per SRH's request,  
copies of the Order were  
sent to all Protestants.

CPS-004

Recycled Paper

PROTESTANT(S) SIGN-IN SHEET

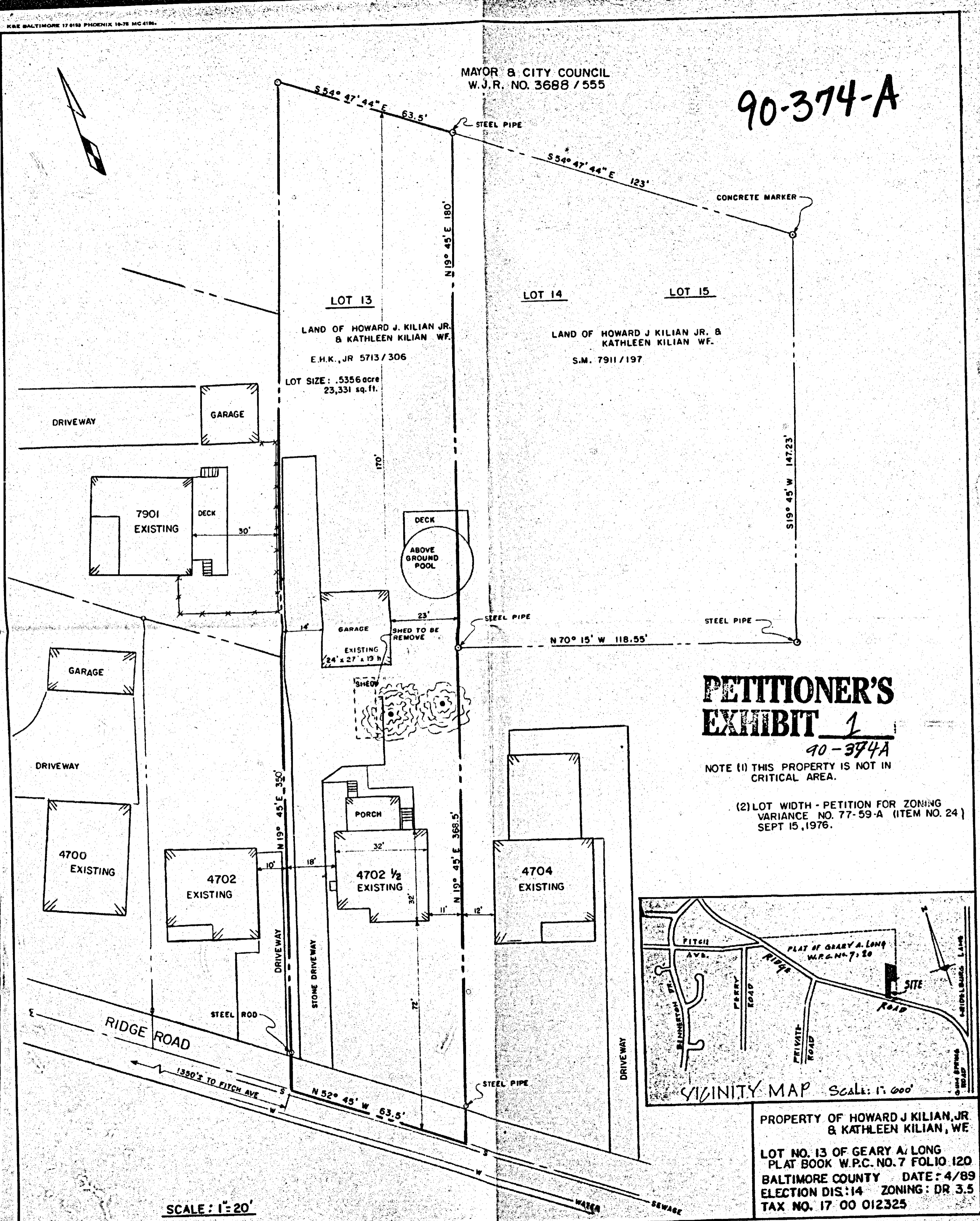
NAME	ADDRESS
Andrew Naden, Esq.	24 W. Penna. Avenue
Thomas Benach	7902 Comes Ave
Gregg Kerkling	7901 Comes Ave
Deborah Kerkling	7901 Comes Ave
David Kerkling	8842 Wilson Ave.
Nancy D. Benach	7902 Comes Ave
John R. Benach	4640 Ridge Road
John R. Benach	4640 Ridge Rd.
John R. Benach	4640 Ridge Rd.
Cindy Benach	7902 Comes Avenue
Louise Benach	7902 Comes Avenue

ANDREW W. NADEN  
ATTORNEY AT LAW  
24 WEST PENNSYLVANIA AVENUE  
SUITE ONE  
TOWSON, MARYLAND 21204

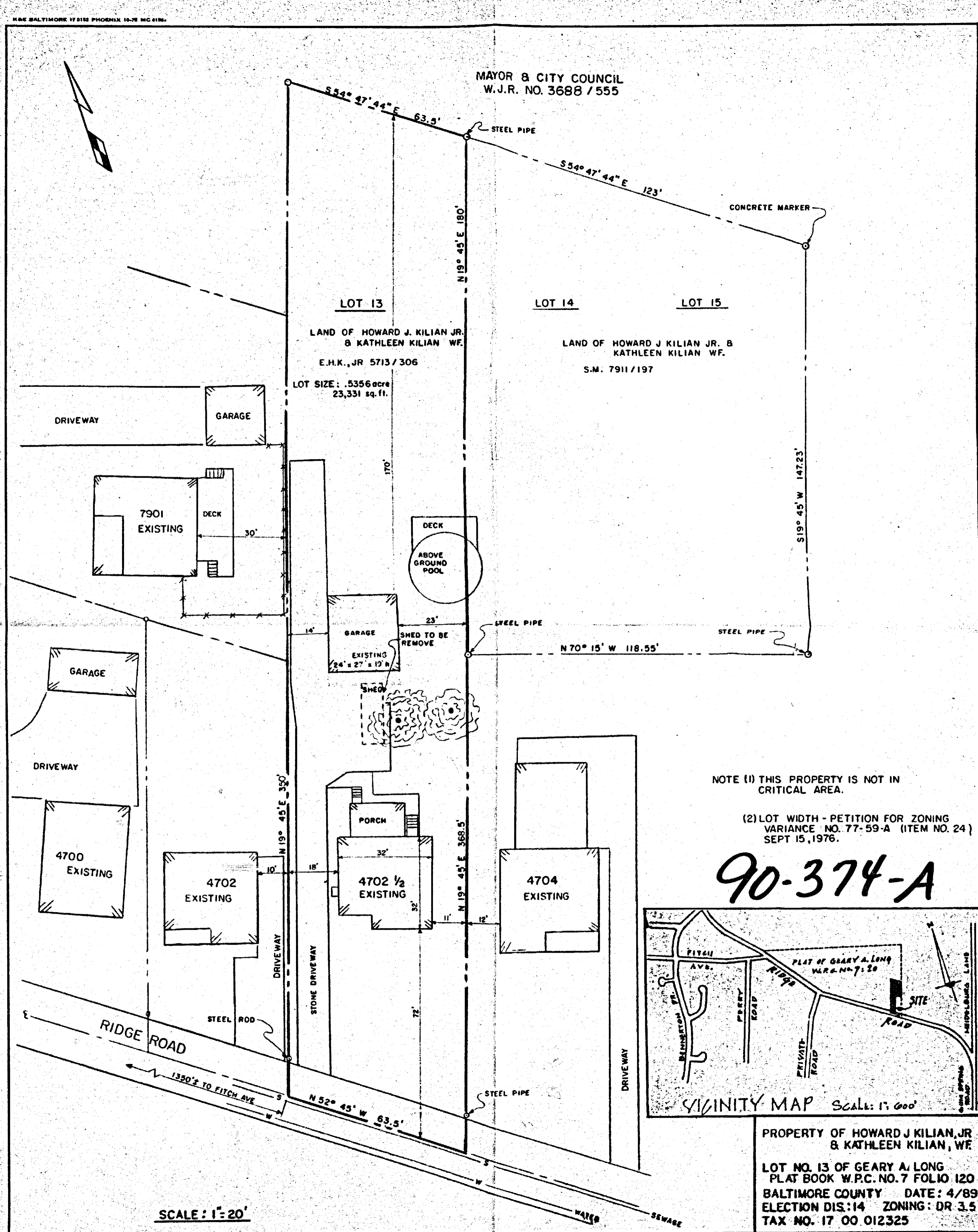
TEL: (410) 288-6700  
FAX: (410) 288-6700

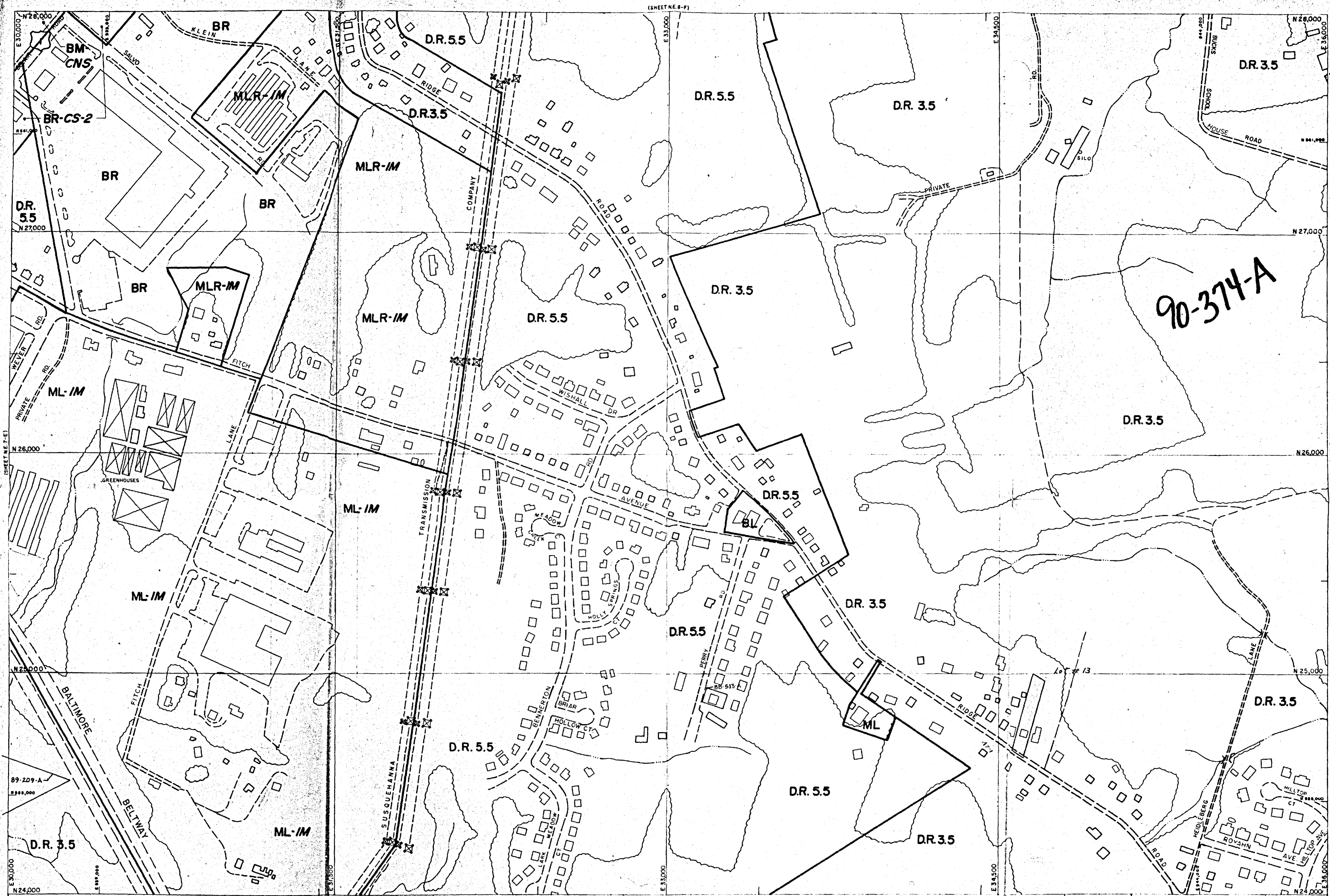
MAYOR & CITY COUNCIL  
W.J.R. NO. 3688 / 555

90-374-A

MAYOR & CITY COUNCIL  
W.J.R. NO. 3688 / 555

90-374-A





N-SE M-SW

1988 COMPREHENSIVE ZONING MAP  
Adopted by the Baltimore County Council  
Oct. 13, 1988  
Bill Nos. 144-88, 145-88, 146-88, 147-88, 148-88, 149-88, 150-88

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.  
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS  
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

**BALTIMORE COUNTY**  
**OFFICE OF PLANNING AND ZONING**  
**OFFICIAL ZONING MAP**

SCALE  
1" = 200' ±

DATE OF PHOTOGRAPHY  
JANUARY 1986

LOCATION  
FULLERTON

SHEET  
N.E.  
7-F

238

IN RE: PETITION FOR ZONING VARIANCE  
C/L of Ridge Road,  
1,350' E of Fitch Avenue  
(4702 and 1/2 Ridge Road)  
14th Election District  
6th Councilmanic District  
Howard J. Kilian, Jr., et ux  
Petitioners

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 90-374-A

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit an accessory structure (garage) height of 19 feet in lieu of the maximum permitted height of 15 feet, in accordance with Petitioner's Exhibit 1.

The Petitioners appeared and testified. Also appearing on behalf of the Petition were Helen Fitch and Arthur Bowers, residents of Ridge Road, and Carol Pijonowski, adjoining property owner. Appearing as Protestants in the matter were Thomas, Mary, Cindy and Louise Benach, Gregg, Deborah and Donald Keplinger, Michael and Joanne Bozman, and Mary Comes. The Protestants were represented by Andrew W. Naden, Esquire.

Testimony indicated that the subject property, known as 4702 1/2 Ridge Road, consists of .5356 acres zoned D.R. 3.3 and is improved with a single family dwelling and detached two-car garage. Petitioner testified that he obtained a building permit for the garage in May 1989 and commenced construction in June. On October 31, 1989, Petitioners were issued a stop work order as a result of a complaint filed in the Zoning Office. Testimony indicated Petitioner was not aware of the height restrictions contained in the zoning regulations and had built the garage with a roof pitch of 19 feet in lieu of the maximum permitted height of 15 feet. There are dormer windows in the rear side of the roof. Petitioner testified the garage has no electric, no water or sewer facilities, and there are no plans to in-

stall same. Testimony indicated that to require removal of the roof might make the walls unstable and dangerous, and that Petitioners would suffer financial hardship as a result of having to hire a contractor to do the work.

The proffered testimony of the Protestants indicated that while they are not opposed to Petitioners having a garage, they object to the proposed height. Testimony indicated the Protestants believe the subject garage has not been built in keeping with the character of the neighborhood and that to grant such relief would not be within the spirit and intent of the zoning regulations.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, there is insufficient evidence to allow a finding that the Petitioners would experience practical difficulty or unreasonable hardship if the requested variance were denied. The testimony presented by Petitioners

was in support of a matter of preference rather than of the necessity for the variance. While the Petitioners argue that bringing the garage in compliance with the zoning regulations will cause undue expense for them, financial hardship cannot be considered a factor when making a determination as to the appropriateness of a variance. The Petitioners have failed to show that compliance with the height restrictions would unreasonably prevent the use of the property or be unnecessarily burdensome. Therefore, the variance requested must be denied.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 30<sup>th</sup> day of March, 1990 that the Petition for Zoning Variance to permit an accessory structure (garage) height of 19 feet in lieu of the maximum permitted height of 15 feet, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED; and,

IT IS FURTHER ORDERED that the roof of the subject garage shall be reconstructed to meet the 15-foot height limitations of the zoning regulations by no later than July 1, 1990.

*J. Robert Haines*  
J. ROBERT HAINES  
Zoning Commissioner  
for Baltimore County

JRH:bjs

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Townson, Maryland 21204  
(301) 887-2333  
J. Robert Haines  
Zoning Commissioner

March 30, 1990



Mr. & Mrs. Howard J. Kilian, Jr.  
4702 1/2 Ridge Road  
Baltimore, Maryland 21236

RE: PETITION FOR ZONING VARIANCE  
C/L of Ridge Road, 1,350' E of Fitch Avenue  
(4702 1/2 Ridge Road)  
14th Election District - 6th Councilmanic District  
Howard J. Kilian, Jr., et ux - Petitioners  
Case No. 90-374-A

Dear Mr. & Mrs. Kilian:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been denied in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,  
*J. Robert Haines*  
J. ROBERT HAINES  
Zoning Commissioner  
for Baltimore County

JRH:bjs

cc: Andrew W. Naden, Esquire  
24 W. Pennsylvania Avenue, Suite 1, Towson, Md. 21204

People's Counsel

File

#### PETITION FOR ZONING VARIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-374-A

The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 400.1 to permit an accessory building (garage) of 19' in height in lieu of the required height of 15'.

of the Zoning Regulations of Baltimore County to the Zoning Law of Baltimore County, for the reasons following: (Indicate hardship or practical difficulty)

SEE ATTACHED SHEET

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:  
(Type or Print Name)  
Signature  
Address  
City and State

Legal Owner(s):  
(Type or Print Name)  
Signature  
(Type or Print Name)  
Signature  
Address  
City and State

Attorney for Petitioner:  
(Type or Print Name)  
Signature  
Address  
City and State

Attorney's Telephone No.:  
Address  
City and State

ORDERED By The Zoning Commissioner of Baltimore County, this 17 day of March, 1990, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that the public hearing be held before the Zoning Commission of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 27 day of March, 1990, at 2 o'clock P.M.

*J. Robert Haines*  
J. ROBERT HAINES  
Zoning Commissioner of Baltimore County

#### BALTIMORE COUNTY MARYLAND DEPARTMENT OF PERMITS AND LICENSES TOWSON, MARYLAND 21204

#### BUILDING PERMIT

PERMIT NO. 9016632 CONTROL NO. 101514 PREC. 02  
DATE ISSUED: 05/16/89 TAX ACCOUNT NO. 17000412325 CLASS. 04

PLANS: CONST. LOT 2 R FLAT DATA ELEC NO PLUM NO  
LOCATION: 4702 1/2 RIDGE RD  
SUBDIVISION: GEARY LONG PLAT

OWNER INFORMATION  
NAME: KILIAN, JR., HOWARD & KATHLEEN  
ADDR: 4702 1/2 RIDGE ROAD, BALTO., MD. 21236

TEHANY  
OWNER  
SELLER  
WORK: CONSTRUCT 2-CAR DETACHED GARAGE ON REAR OF PROPERTY. 24' X 24' X 19' = 576 SF.

THIS PERMIT  
EXPIRES ONE  
YEAR FROM DATE  
OF ISSUE

PROPOSED: 1 AND 2 FAM. CODE  
RESIDENTIAL CATEGORY: DETACHED OWNERSHIP: PRIVATELY OWNED

ESTIMATED & PROPOSED USE: SAME AND GARAGE  
2,300 SQ. EXISTING USE: SFD

TYPE OF IMPRV: NEW BUILDING CONSTRUCTION  
USE: GARAGE  
FOUNDATION: SLAB BASEMENT: NONE  
SEWAGE: PUBLIC EXIST WATER: PUBLIC EXIST

#### LOT SIZE AND SETBACKS

SIZE: 963/967X368/351  
FRONT STREET:  
SIDE STREET: NC  
SIDE SETB: 3' 3/4'  
SIDE STR SETB: 165  
REAR SETB: 165

PLEASE REFER TO PERMIT NUMBER WHEN MAKING INQUIRIES.

#### HARDSHIP

When we applied for the garage building permit (#B016632), we were not informed of the 15' maximum garage height. If we had known of the 15' maximum height, we wouldn't had constructed the garage over the 15' restriction. We were led to believe by the clerk in building permits that the 10' height on permit #B016632 was only the wall height and not the total height of the garage. We did state to the clerk that the garage would have a 8' garage door with a 14' clearance above the garage door. The clerk never asked what will be the total height of the garage. As residents of Baltimore County that does not deal with the zoning regulations, we were unfamiliar with the zoning in our area pertaining to garages.

If the roof would have to be removed, the removal would make the walls unstable and dangerous. There is always the possibility that the garage walls could collapse. One person could not remove the roof safely the way one can build a roof.

Due to an automobile accident in November which we were involved in (the accident was not our fault), I (Howard Kilian) feel as one person that I am unable to perform the removal of the roof due to a shoulder injury sustained from the accident. Therefore, we would have to hire a contractor to do this work. To hire a contractor to perform the work on the roof, it would be a financial hardship. With our car being totaled, we had to invest our funds into the purchase of a new car. We are unable to secure funds for the removal of the roof at this time.

Therefore we are requesting that the garage be completed as is with the 19' height.

#### ZONING DESCRIPTION

Beginning at a point in the center of Ridge Road which is 1,350'± east of the center line of Fitch Avenue. Being lot # 13 in the subdivision of Geary A. Long as recorded in Baltimore County plat book No. 7, folio 120, saving and excepting therefrom that part of said lot granted to the Mayor and City Council of Baltimore City as recorded in Baltimore County land records in Liber W.J.R. No. 3688, in Baltimore County land records in Liber W.J.R. No. 3688, .9356 acre. Also know as 4702 1/2 Ridge Road and located in the 14th election district.

Baltimore County  
Zoning Commissioner  
County Office Building  
121 West Limespang Avenue  
Towson, Maryland 21204

Account #001-6150  
Number

No 1046

1/18/90

PUBLIC HEARING FEES  
010 - ZONING VARIANCE (1RL)  
TOTAL: \$35.00

LAST NAME OF OWNER: KILIAN, J.  
Please make checks payable to Baltimore County

Cashier Validation

# PROTESTANT'S EXHIBIT A

90-374A



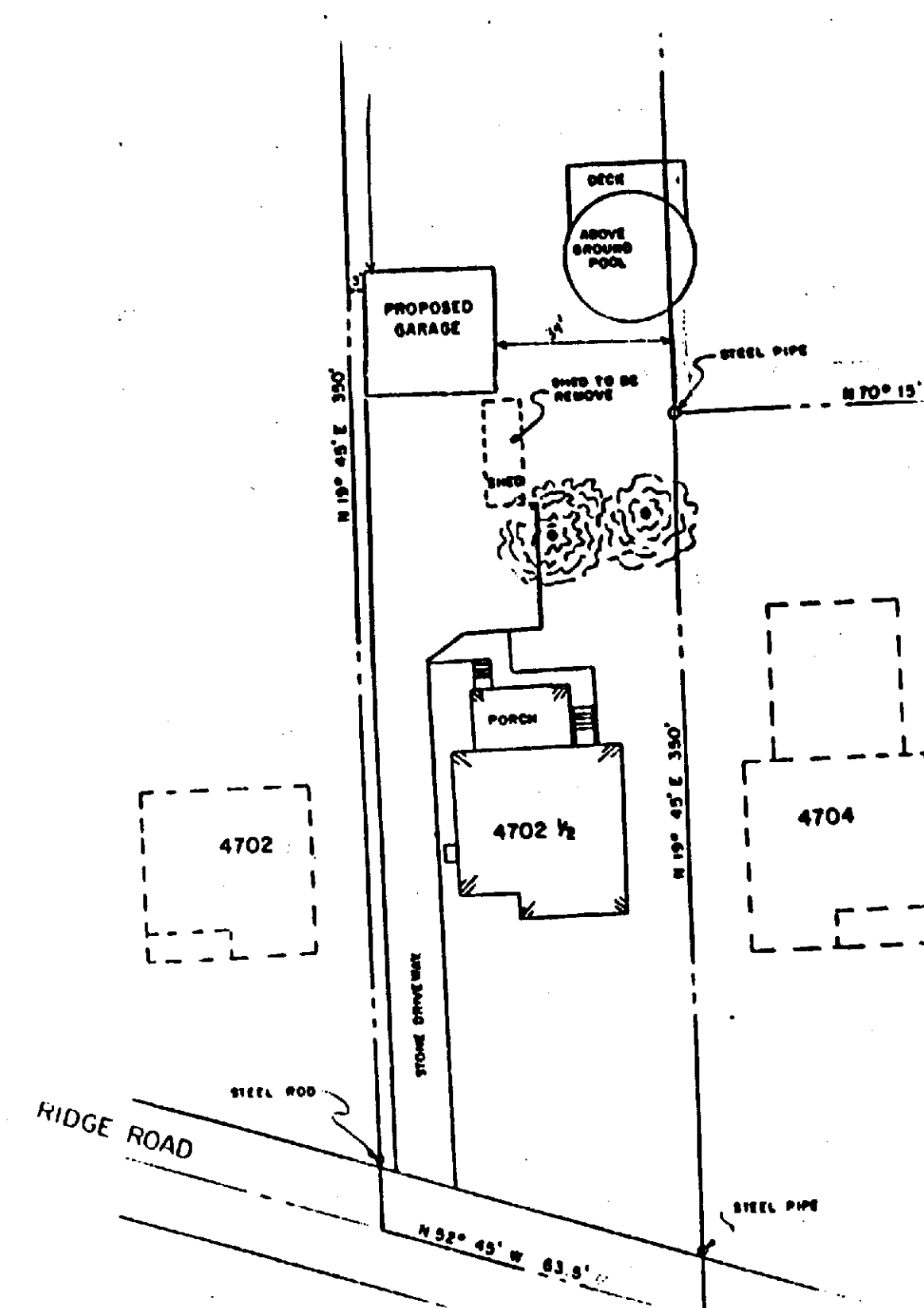
BALTIMORE COUNTY MARYLAND  
DEPARTMENT OF PERMITS AND LICENSES  
TOWSON, MARYLAND 21204

BUILDING ENGINEER

## BUILDING PERMIT

PERMIT NO. 9016632 CONTROL NO. 14 DIST. 14 PREC. 02  
DATE ISSUED: 02/14/89 TAX ACCOUNT NO. 1700012325 CLASS: 02  
PLANS: CHURCH FLOT 2 R PLAT DATA ELEC NO FLUN NO  
LOCATION: 4702 1/2 RIDGE RD  
SUBDIVISION: GEARY LONG PLAT  
OWNER INFORMATION  
NAME: KILLIAN, JR., HOWARD A KATHLEEN  
ADDR: 4702 1/2 RIDGE ROAD, BALTO., MD. 21234  
TELEPHONE:  
OWNER: OWNER  
ENGINEER:  
SELLER:  
WORK: CONSTRUCT 2-CAR DETACHED GARAGE ON REAR OF  
PROPERTY. 24 X 24 X 10 = 576 SF.

BLDG. CODE: 1 AND 2 FAM. CODE (UNRESIDENTIAL) PRIVATELY OWNED  
RESIDENTIAL CATEGORY: DETACHED  
ESTIMATED 4 PROPOSED USE: SAME AND GARAGE  
2,500.00 EXISTING USE: SFD  
TYPE OF IMPROV: NEW BUILDING CONSTRUCTION  
USE: GARAGE FOUNDATION: SLAB BASEMENT: NONE  
SEWER: PUBLIC EXIST WATER: PUBLIC EXIST  
LOT SIZE AND SETBACKS  
SIZE: 0.62/0.75/0.35/0.35  
FRONT SETBACK: 30' SIDE SETBACK: 30' REAR SETBACK: 165'  
SIDE SETBACK: 30' SIDE SETBACK: 165'



# PROTESTANT'S EXHIBIT B

B

90-374A

ARTICLE 4--SPECIAL REGULATIONS [B.C.Z.R., 1955.]

Section A400--PURPOSE [Bill No. 18, 1976.]

Certain uses, whether permitted as of right or by special exception, have singular, individual characteristics which make it necessary, in the public interest, to specify regulations in greater detail than would be feasible in the individual use regulations for each or any of the zones or districts. This article, therefore, provides such regulations. [Bill No. 40, 1967.]

Section B400--APPLICATION OF THIS ARTICLE'S PROVISIONS [Bill No. 18, 1976.]

The provisions of this article apply only to principal uses except as otherwise specified (as in Item 405.4.C.12) or unless the provision implicitly relates to accessory usage (as in Section 405A). [Bill No. 18, 1976.]

Section 400--ACCESSORY BUILDINGS IN RESIDENCE ZONES [B.C.Z.R., 1955; Bill No. 27, 1963.]

400.1--Accessory buildings in residence zones, other than farm buildings (Section 404) shall be located only in the rear yard and shall occupy not more than 40% thereof. On corner lots they shall be located only in the third of the lot farthest removed from any street and shall occupy not more than 50% of such third. In no case shall they be located less than 2 1/2 feet from any side or rear lot lines, except that two private garages may be built with a common party wall straddling a side interior property line if all other requirements are met. The limitations imposed by this section shall not apply to a structure which is attached to the principal building by a covered passageway or which has one wall or part of one wall in of the principal building and shall be subject to the yard requirements for such a building. [B.C.Z.R., 1955; Bill No. 27, 1963.]

400.2--Accessory buildings shall be set back not less than 15 feet from the center line of any alley on which the lot abuts. [B.C.Z.R., 1955.]

400.3--The height of accessory buildings, except as noted in Section 300 shall not exceed 15 feet. [B.C.Z.R., 1955.]

4-1

less than the average depth of the front yards of all lots within 100 feet on each side thereof which are improved as described above. [B.C.Z.R., 1955.]

Section 304--USE OF UNDERSIZED SINGLE-FAMILY LOTS [B.C.Z.R., 1955.]

A one-family dwelling may be erected on a lot having an area or width of the building line less than that required by the height and area regulations, provided: [B.C.Z.R., 1955.]

a. That such lot shall have been duly recorded either by deed or in a validly approved subdivision prior to adoption of these Regulations; and [B.C.Z.R., 1955.]

b. That all other requirements of the height and area regulations are complied with; and [B.C.Z.R., 1955.]

c. That the owner of the lot does not own sufficient adjoining land to conform substantially to the width and area requirements. [B.C.Z.R., 1955.]

Section 305--REPLACEMENT OF DESTROYED OR DAMAGED DWELLINGS [B.C.Z.R., 1955.]

In case of complete or partial casualty loss by fire, wind, storm, flood, or otherwise of an existing dwelling that does not comply with height and/or area requirements of the zone in which it is located, such dwelling may be restored provided area and/or height deficiencies of the dwellings before the casualty are not increased in any respect. [B.C.Z.R., 1955.]

Section 306--MINOR PUBLIC UTILITY STRUCTURES [B.C.Z.R., 1955.]

Minimum lot area regulations in any zone shall not apply to repeater, booster, or transformer stations, or small community dial offices. [B.C.Z.R., 1955; Resolution, November 21, 1956.]

Section 307--VARIANCES [B.C.Z.R., 1955; Bill No. 107, 1963.]

307.1--The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from offstreet parking regulations and from sign regulations, only in cases where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential

3-3

APPROVED JUL 01 1989

# PROTESTANT'S EXHIBIT C

PETITION AND AFFIDAVIT

OBJECTION TO ZONING VARIANCE

CASE NUMBER: 90-374-A

We, the Undersigned residents of the 14th Election District, 6th Councilmanic, Baltimore County, Maryland, hereby object to the proposed variance to permit an accessory building (garage) of 19 feet + or - in height in lieu of the required height of 15 feet at 4702 1/2 Ridge Road which is now being petitioned by Howard J. Killian, Jr., et ux.

A hearing date for this matter has been scheduled for Tuesday, March 27, 1990 at 2:00 p.m., and many of us will not be able to attend in person to voice our objections due to our prior work schedules and previous commitments. Therefore, we now submit this objection by proxy in an effort to stay the issuance of this erroneous building permit.

The zoning law of Baltimore County already provides for the construction of an accessory building which is 15 feet in height. If the petitioner is allowed to build a 20 feet tall structure in our neighborhood, the result will be more like a dwelling than a garage. There is no passenger car sold in America today which requires a such a large garage.

1

This is our neighborhood, and we must all live here, together.

If it is possible to live within the existing zoning laws, we must endeavor to do so. Otherwise, we run the risk of changing the nature and character of the neighborhood. We are not asking the Zoning Commissioner to prevent the Killians from constructing any accessory building on their property. Rather, we are merely suggesting that they build their garage within the guidelines which are currently prescribed by law.

We respectfully request that this petition and the undersigned names be read into the record on the date of the hearing by our attorney, Andrew W. Naden, of 24 West Pennsylvania Avenue, Suite One, Towson, Maryland 21204.

WITNESS our hands and seals on the date which appears to the right of our respective names.

NAME AND DATE	ADDRESS AND PHONE NUMBER
1. Thomas L. Smith 3/2/90	7702 COMES AVE. 665-8489
2. Gregg A. Neplinger 3/2/90	7701 COMES AVE. 665-1001
3. [Signature] 3/2/90	8712 Wilson Ave. 665-1613

2

density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, offstreet parking, or sign regulations, and only in such manner as to grant relief without substantial injury to public health, safety, and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance. [B.C.Z.R., 1955; Bill No. 107, 1963; No. 32, 1988.]

307.2--In addition to the authority and limitations set forth in Section 307.1 above, within the Chesapeake Bay Critical Area, the Zoning Commissioner, or upon appeal, the Board of Appeals of Baltimore County, shall have the power to authorize the expansion of those uses in existence at the time of the effective date of this subsection; any order granting a variance pursuant to this subsection shall contain findings of fact which shall include the following: [Bill No. 32, 1988.]

1. That special conditions or circumstances exist that are peculiar to the land or structure within the critical area of the county; [Bill No. 32, 1988.]
2. That strict compliance with the critical area regulations would result in practical difficulty, unreasonable hardship or severe economic hardship; [Bill No. 32, 1988.]
3. That strict compliance with the critical area regulations will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the critical area of the county; [Bill No. 32, 1988.]
4. That the granting of a variance will not confer upon an applicant any special privilege that would be denied by the critical area regulations to other lands or structures within the critical area of the county; [Bill No. 32, 1988.]
5. That the variance request is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming, on any neighboring property; [Bill No. 32, 1988.]

APPROVED JUL 01 1989

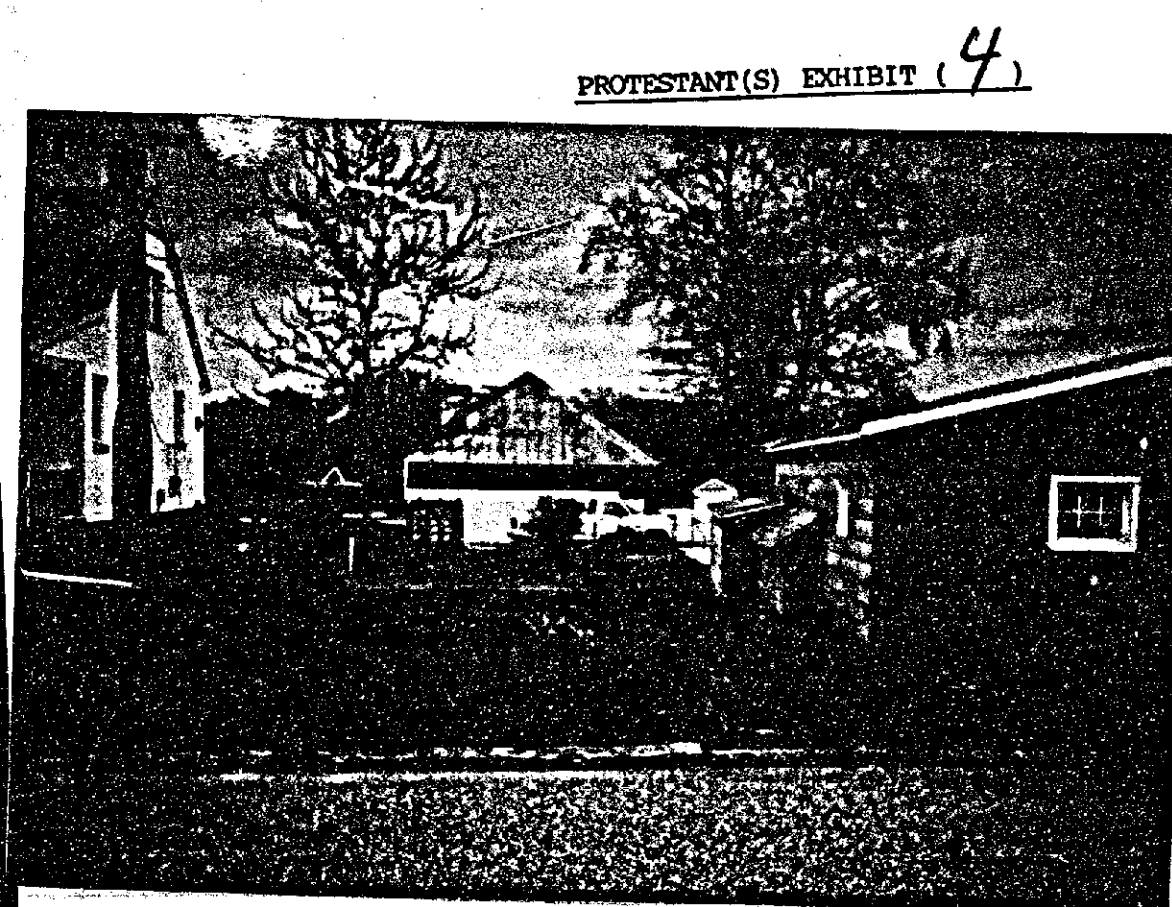
3-4

4. [Signature] 3/2/90 8843 Wilson Ave. 665-1613
5. [Signature] 3/2/90 3510 QUETMAN AVE. 665-1607
6. [Signature] 3/2/90 3510 Quetman Ave. 665-1607
7. [Signature] 3/2/90 8841 WILSON AVE. 665-1613
8. [Signature] 3/2/90 8840 WILSON AVE. 665-0892
9. [Signature] 3/2/90 8840 WILSON AVE. 665-0892
10. [Signature] 3/2/90 7701 COMES AVE. 665-1001
11. [Signature] 3/2/90 14 Henry Ave. 665-1613
12. [Signature] 3/2/90 14 Henry Ave. 665-1613

3

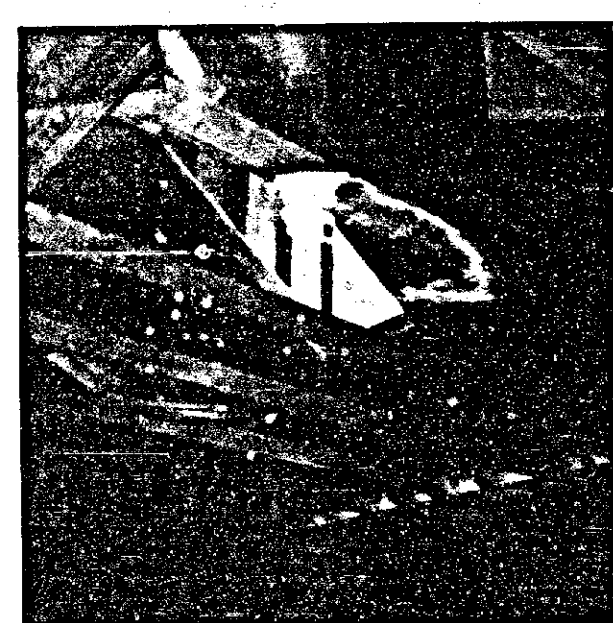
13. David W. Benach 2-25-90 7902 Comes Ave.  
Baltimore, MD 21236-665-8489
14. James O. Benach 2-25-90 7902 Comes Ave.  
Louise A. Benach Baltimore, MD 21236-665-8489
15. May D. Benach 2-25-90 7902 Comes Ave.  
May D. Benach Baltimore, MD 21236-665-8489
16. Cindy A. Benach 3-25-90 7902 Comes Avenue  
Cindy A. Benach Baltimore, MD 21236-665-8489
17. Dave Russo 3-26-90 4 TOWNRIDGE COURT, APT D  
DAVE RUSSO BALTIMORE, MD 21236-661-1183
18. John Coates 4-6-90 4640 Ridge Road  
John Coates Baltimore, MD 21236-665-3921
19. Mary B. Coates 4-6-90 4640 Ridge Road  
Mary B. Coates Baltimore, MD 21236-665-3921
20. Mike B. 4-6-90 4640 Ridge Road  
Mike B. Baltimore, MD 21236-665-3921

01980217-67



90-374A

Petitioner's Exhibit 2



PETITIONER'S  
EXHIBIT 3

90-374A

AS NEIGHBORS TO HOWARD AND KATHLEEN KILIAN, WE HAVE NO  
OBJECTION TO THE 19 FEET HEIGHT OF THEIR GARAGE WHICH IS  
LOCATED AT 4702 1/2 RIDGE ROAD.

NAME	ADDRESS
<u>John Fitch 3/17/90</u>	<u>4709 Ridge Rd.</u>
<u>Arthur E. Bauer</u>	<u>4705 Ridge Rd.</u>
<u>Francis &amp; Dorothy White</u>	<u>4702 Ridge Rd.</u>
<u>Alida King</u>	<u>4702 Ridge Rd.</u>
<u>Rose M. Coates</u>	<u>4642 Ridge Rd.</u>
<u>Ray &amp; Becky Jones</u>	<u>4701 RIDGE RD. 21236</u>
<u>Dor &amp; Carol Pijunowski</u>	<u>4704 Ridge Road</u>
<u>George C. Joliffe</u>	<u>4704 Ridge Road</u>
<u>Jois Froad</u>	<u>4708 Ridge Road</u>
<u>Christine M. Pijunowski</u>	<u>4704 Ridge Road</u>

Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353  
J. Robert Haines  
Zoning Commissioner

Feb. 13, 1990

NOTICE OF HEARING

Dennis F. Rasmussen  
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance  
CASE NUMBER: 90-374-A  
C/L of Ridge Road, 1350' E of Fitch Avenue  
4702 1/2 Ridge Road  
14th Election District - 6th Councilmanic  
Petitioner(s): Howard J. Kilian, Jr., et ux  
HEARING: TUESDAY, MARCH 27, 1990 at 2:00 p.m.

Variance to permit an accessory building (garage) of 19 ft. in height in lieu of the required height of 15 ft.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period, the Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines  
ZONING COMMISSIONER  
BALTIMORE COUNTY, MARYLAND

cc: Mr. & Mrs. Kilian

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353

J. Robert Haines  
Zoning Commissioner

DATE 3/13/90



Dennis F. Rasmussen  
County Executive

Mr. & Mrs. Howard J. Kilian, Jr.  
4702 1/2 Ridge Road  
Baltimore, Maryland 21236

Re: Petition for Zoning Variance  
CASE NUMBER: 90-374-A  
C/A of Ridge Road, 1350' E of Fitch Avenue  
4702 1/2 Ridge Road  
14th Election District - 8th Councilmanic  
Petitioner(s): Howard J. Kilian, Jr., et ux  
HEARING: TUESDAY, MARCH 27, 1990 at 2:00 p.m.

Dear Mr. & Mrs. Kilian:

Please be advised that \$105.46 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional \$50.00 added to the above amount for each such set not returned.

Very truly yours,

J. Robert Haines  
J. ROBERT HAINES  
ZONING COMMISSIONER

JRH:gs  
cc: File

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353

J. Robert Haines  
Zoning Commissioner

March 14, 1990



Dennis F. Rasmussen  
County Executive

Mr. & Mrs. Howard J. Kilian, Jr.  
4702 1/2 Ridge Road  
Baltimore, MD 21236

RE: Item No. 238, Case No. 90-374-A  
Petitioner: Howard J. Kilian, et ux  
Petition for Zoning Variance

Dear Mr. & Mrs. Kilian:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer  
JAMES E. DYER  
Chairman  
Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353

J. Robert Haines  
Zoning Commissioner



Dennis F. Rasmussen  
County Executive

Your petition has been received and accepted for filing this 14th day of February, 1990.

J. Robert Haines  
J. ROBERT HAINES  
ZONING COMMISSIONER

Received By:

James E. Dyer  
Chairman,  
Zoning Plans Advisory Committee

Petitioner: Howard J. Kilian, Jr., et ux

Petitioner's Attorney:

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines  
Zoning Commissioner

DATE: February 9, 1990

FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning

SUBJECT: Howard J. Kilian, Jr., Item 238

The Petitioner requests a Variance to a Variance to permit an accessory building of 19 ft. in height in lieu of the required height of 15 ft.

Should the Petitioner's request be granted, staff recommends a restriction be placed in the Order prohibiting any living quarters, kitchen, or bathroom facilities in the garage.

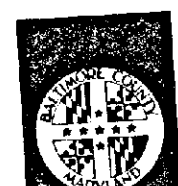
If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

Baltimore County  
Department of Permits & Licenses  
111 West Chesapeake Avenue  
Towson, Maryland 21204  
(301) 887-3611

Ted Zaleski, Jr.  
Director

FEBRUARY 7, 1990



Dennis F. Rasmussen  
County Executive

J. Robert Haines  
Zoning Commissioner  
Office of Planning and Zoning  
Baltimore County Office Building  
Towson, MD 21204

RE: Property Owner: HOWARD J. KILIAN, JR.  
Location: 44702-1/2 RIDGE ROAD

Item No.: 238 Zoning Agenda: FEBRUARY 13, 1990

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: Capt. J. Kelly 2-7-90 Noted and Approved  
Planning Group Captain W. F. Brady, Jr.  
Special Inspection Division Fire Prevention Bureau

JK/KEK

FEB 12 1990

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: March 5, 1990

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting  
for February 13, 1990

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 229, 235, 236, 238, and 239.

Robert W. Bowling  
ROBERT W. BOWLING, P.E., Chief  
Developers Engineering Division

RWB:g

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Howard J. Kilian	4702 1/2 Ridge Rd.
Kathleen M. Kilian	4702 1/2 Ridge Rd.
John J. Kilian	4702 1/2 Ridge Rd.
Carol Pijowski	4704 Ridge Rd.
Arthur Bowers	4705 Ridge Rd.



Baltimore County, Maryland

Date: 3/13/90

To: Case No. 90-374-A

From: RWH

☒ Please Note & File ☐ To be Signed  
☐ For Your Information ☐ Please Comment  
☐ Please Note & Return ☐ Please See Me  
☐ Please Handle ☐ Investigate & Report  
☐ Please answer, Sending me Copy of your letter  
☐ Please Prepare reply for my Signature

Remarks: Per SRH's request,  
copies of the Order were  
sent to all Protestants.

CPS-004

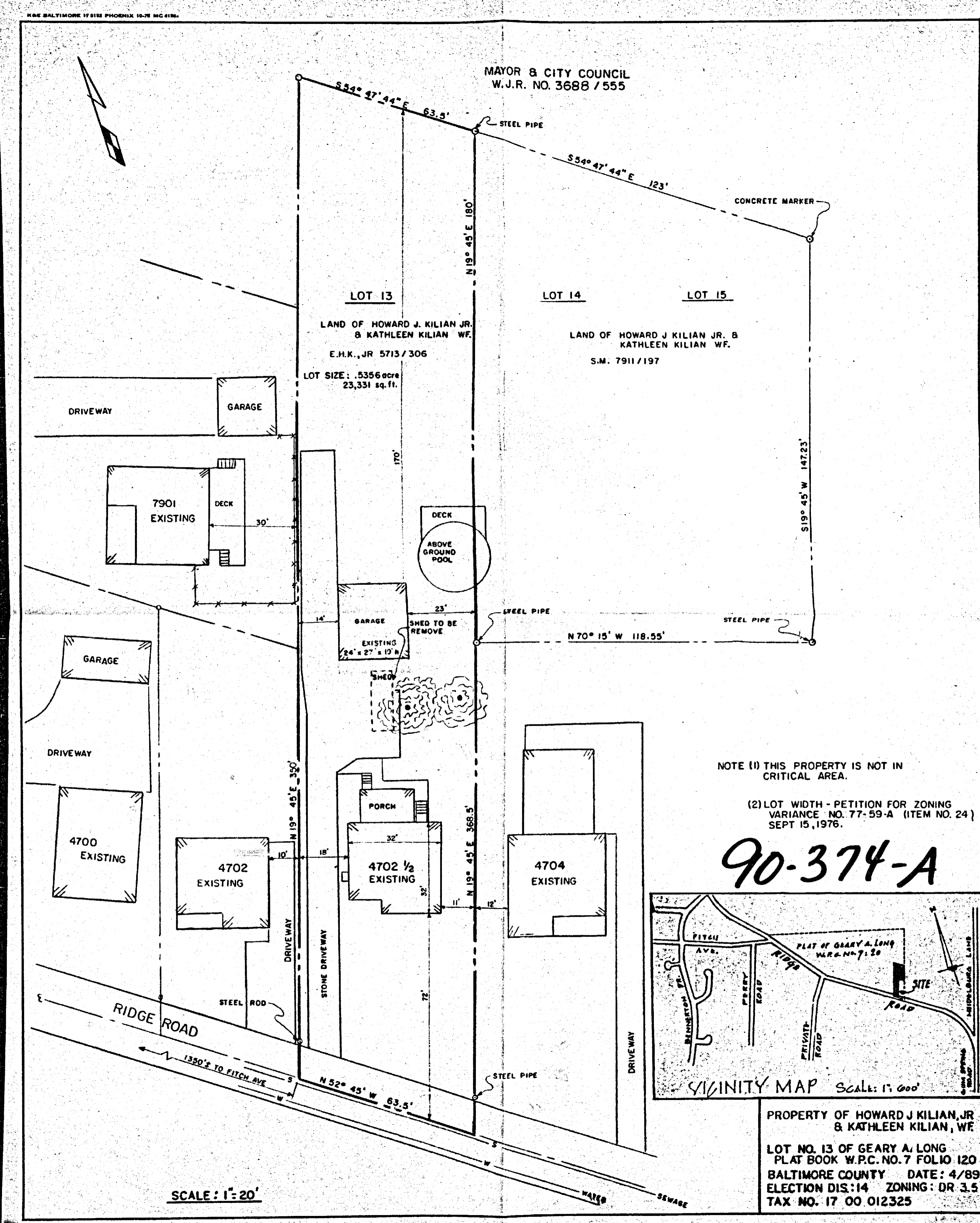
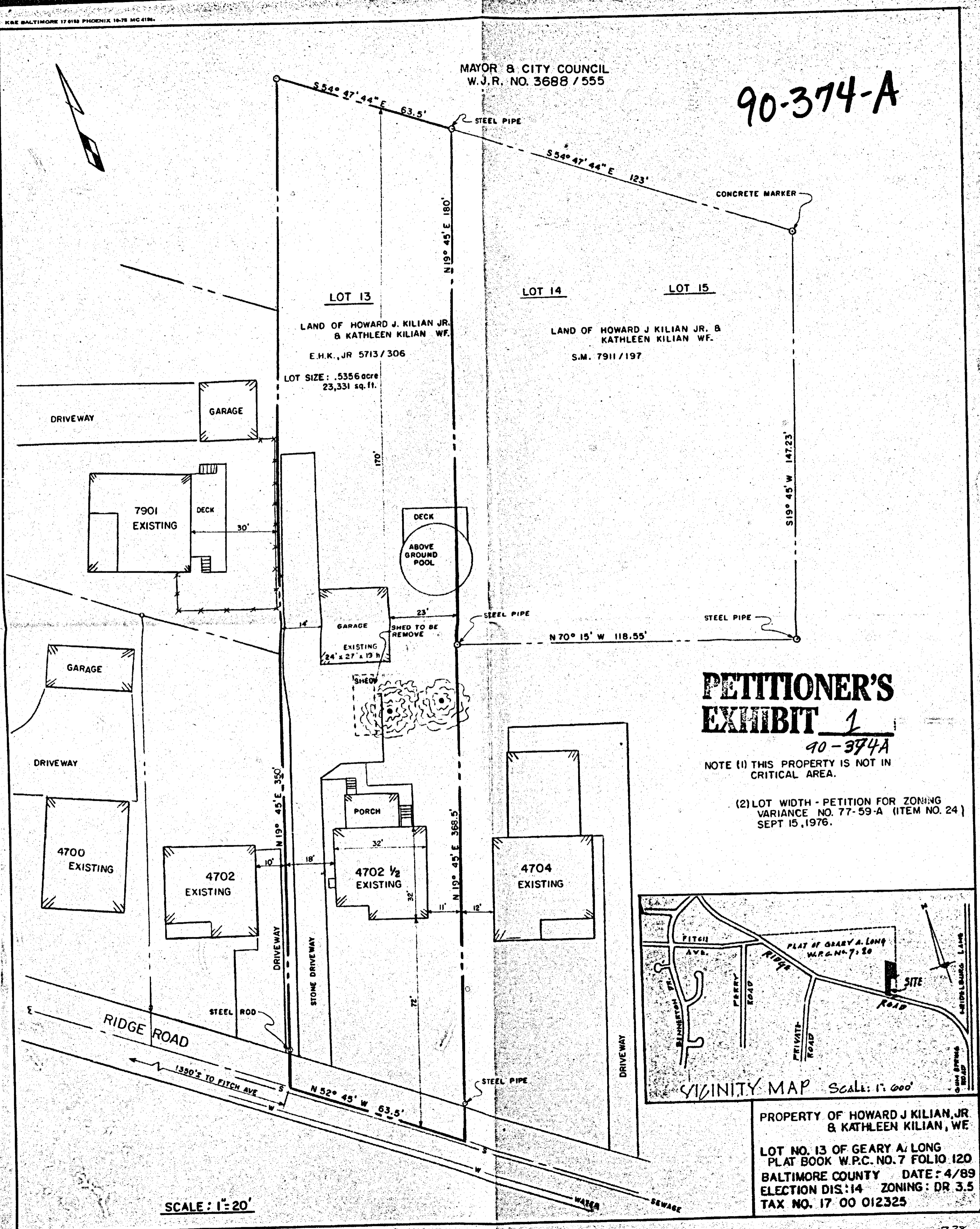
Recycled Paper

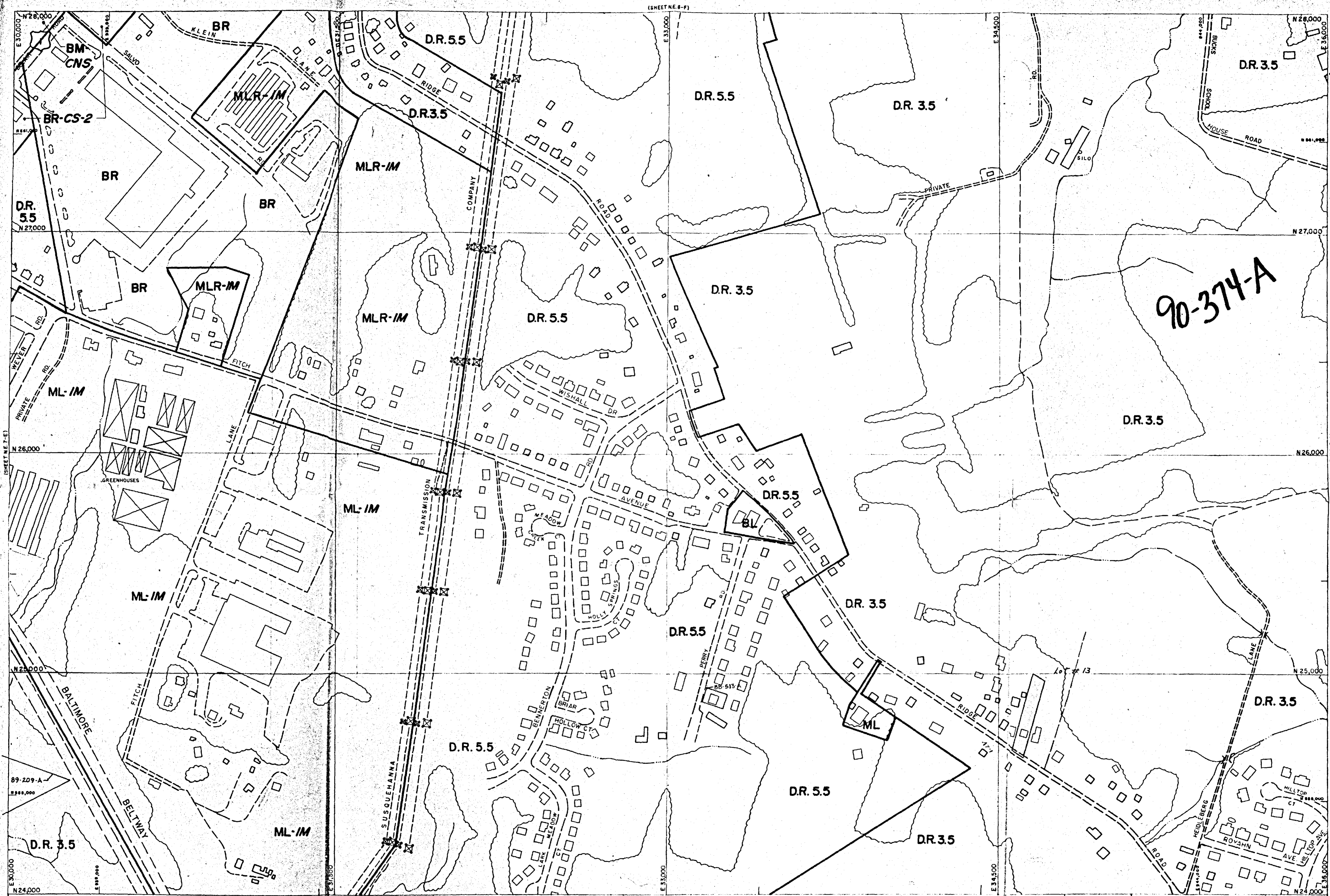
PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Andrew Naden, Esq.	24 W. Penna. Avenue
Thomas Benach	7902 Comes Ave
Gregg Kerkling	7901 Comes Ave
Deborah Kerkling	7901 Comes Ave
David Kerkling	8842 Wilson Ave.
Mary D. Benach	7902 Comes Ave
John R. Benach	4640 Ridge Road
John R. Benach	4640 Ridge Rd.
John R. Benach	4640 Ridge Rd.
Cindy Benach	7902 Comes Avenue
Louise Benach	7902 Comes Avenue

ANDREW W. NADEN  
ATTORNEY AT LAW  
24 WEST PENNSYLVANIA AVENUE  
SUITE ONE  
TOWSON, MARYLAND 21204

TEL: (410) 288-6700  
FAX: (410) 288-6700





N-SE M-SW

1988 COMPREHENSIVE ZONING MAP  
Adopted by the Baltimore County Council  
Oct. 13, 1988  
Bill Nos. 144-88, 145-88, 146-88, 147-88, 148-88, 149-88, 150-88

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.  
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS  
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

**BALTIMORE COUNTY**  
**OFFICE OF PLANNING AND ZONING**  
**OFFICIAL ZONING MAP**

SCALE  
1" = 200' ±

DATE OF PHOTOGRAPHY  
JANUARY 1986

LOCATION  
FULLERTON

SHEET  
N.E.  
7-F

238